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5 UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
7 OAKLAND DIVISION  
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9 TIMOTHY DOYLE YOUNG,

10 Plaintiff,

11 vs.

12 FBI,

13 Defendant.  
14

Case No: C 12-5990 SBA (pr)

**ORDER DISMISSING ACTION**

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16 On November 26, 2012, Plaintiff Timothy Doyle Young, a federal inmate housed at  
17 the United States Penitentiary (USP)—Florence, Colorado, filed a pro se complaint in  
18 which he purports to allege a First Amendment claim against the Federal Bureau of  
19 Investigations (FBI). Dkt. 1. On January 8, 2013, Plaintiff filed a request to proceed in  
20 forma pauperis (IFP). Dkt. 3.

21 In his Complaint, Plaintiff alleges that “the [FBI] refuses to allow [him] to file a  
22 criminal civil rights complaint or a criminal complaint in violation of the First  
23 Amendment.” Compl. at 1, Dkt. 1. Attached to the Complaint is an apparent copy of a  
24 letter from the FBI to Plaintiff, dated September 11, 2012, in which the FBI denied  
25 Plaintiff’s administrative claim for \$10 million under the Federal Tort Claim Act (FTCA).  
26 Dkt. 1 at 1. According to the letter, Plaintiff had previously accused the FBI of having  
27 “ignored several of [his] requests to file a criminal civil rights complaint against Bureau of  
28 Prisons staff, relating to criminal activity at the prison in which [he is] incarcerated.” Id.

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1 A federal court must engage in a preliminary screening of any case in which a  
2 prisoner seeks redress from a governmental entity or officer or employee of a governmental  
3 entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable  
4 claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon  
5 which relief may be granted, or seek monetary relief from a defendant who is immune from  
6 such relief. See id. at § 1915A(b)(1),(2). Pro se pleadings must be liberally construed. See  
7 Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990).

8 The FTCA provides for the abrogation of the sovereign immunity of the United  
9 States with respect to tort claims against the federal government. 28 U.S.C. § 2674. The  
10 FTCA provides that the United States shall be liable in tort suits “in the same manner and  
11 to the same extent as a private individual under like circumstances.” 28 U.S.C. § 2674. It  
12 is the exclusive waiver of sovereign immunity for suits against the United States sounding  
13 in tort. 28 U.S.C. § 1346(b). The United States is the only proper defendant in FTCA  
14 claims; agencies such as the FBI cannot be named as defendants. 28 U.S.C. § 2679(a).  
15 Thus, to the extent that Plaintiff has any claims against the federal government, the United  
16 States, rather than the FBI, is the proper defendant.

17 The gist of Plaintiff’s claim is that the FBI has ignored his requests to file a criminal  
18 civil rights complaint against Bureau of Prisons staff at USP-Florence in response to  
19 alleged “criminal activity” at the prison. Dkt. 1 at 3. However, it is the United States  
20 Attorney, not the FBI, that decides whether to prosecute an action. In any event, the United  
21 States is absolutely immune from liability for its decisions on whether or not to prosecute  
22 an action. Wright v. United States, 719 F.2d 1032, 1035 (9th Cir. 1983) (“The decision  
23 whether or not to prosecute a given individual is a discretionary function for which the  
24 United States is immune from liability.”). To the extent that Plaintiff is claiming that the  
25 FBI somehow is preventing him from commencing a criminal action against unnamed  
26 prison staff, Plaintiff has failed to allege any facts in support of such a claim. Bell Atl.  
27 Corp. v. Twombly, 550 U.S. 544, 570 (2007) (holding that avoid dismissal, a pleading must  
28 allege “enough facts to state a claim to relief that is plausible on its face.”). But even if he

1 had, Plaintiff lacks standing to assert criminal claims against another individual. See Linda  
2 R. S. v. Richard D., 410 U.S. 614, 619 (1973) (“[A] private citizen lacks a judicially  
3 cognizable interest in the prosecution or nonprosecution of another”).<sup>1</sup> Accordingly,

4 IT IS HEREBY ORDERED THAT:


5 1. Plaintiff’s request to proceed IFP is GRANTED.

6 2. The instant action is DISMISSED. Because further amendment to the  
7 pleadings will not cure the deficiencies resulting in the dismissal, said dismissal is without  
8 leave to amend. Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that any appeal  
9 from this Order would not be in good faith.

10 3. The Clerk shall close the file.

11 IT IS SO ORDERED.

12 Dated: January 18, 2013

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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26 <sup>1</sup> Also attached to the Complaint is a declaration in which Plaintiff claims that he  
27 previously filed at least two civil rights lawsuits in which Magistrate Judges Boland and  
28 Shaffer of the District of Colorado allegedly issued rulings based on false information.  
Dkt. 1 at 10-12. Plaintiff does not appear to attempt to state a claim against these judicial  
officers. In any event, federal judicial officers are immune from lawsuits based on their  
rulings. See Moore v. Brewster, 96 F.3d 1240, 1243 (9th Cir. 1996).

1 UNITED STATES DISTRICT COURT  
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4 TIMOTHY DOYLE YOUNG,

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7 FBI et al,

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9 \_\_\_\_\_/

10 Case Number: CV12-05990 SBA

11 **CERTIFICATE OF SERVICE**

12  
13 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
14 Court, Northern District of California.

15 That on January 18, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said  
16 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
17 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
18 located in the Clerk's office.

19  
20 Timothy Doyle Young Reg. No. 60012-001  
21 U.S. Penitentiary Max-ADX  
22 P.O. Box 8500  
23 Florence, CO 81226-8500

24 Dated: January 18, 2013

25 Richard W. Wieking, Clerk  
26 By: Lisa Clark, Deputy Clerk  
27  
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